



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

SENATE BILL NO. 506

PRINTER'S NO. 843

PRIME SPONSOR: Baker

### COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	\$0	\$0

### SUMMARY:

Senate Bill 506, Printer's Number 843 amends Title 20 of the Pennsylvania Consolidated Statutes to add requirements for a review hearing when the court has appointed a guardian for an incapacitated person.

### ANALYSIS:

This legislation adds new requirements to Title 20 (Probate, Estates and Fiduciaries Code) of the Pennsylvania Consolidated Statutes, Section 5511, which will allow for:

- The incapacitated person to be represented by counsel at the time a petition for guardianship of an alleged incapacitated person or as soon as the petitioner becomes aware of the representation. Regardless of the incapacitated person's ability to pay, the court will appoint counsel to represent the alleged incapacitated person when that person has not retained their own counsel.
- If the court determines that there is a need for a person who will look after and protect the interests of the alleged incapacitated person, known as a guardian ad litem, the retained counsel may not act as that person's guardian ad litem, and the court will make a separate appointment.
- For an individual seeking guardianship of three or more incapacitated persons, that individual must be certified as required by the rules established by the Pennsylvania Supreme Court and provide proof of this certification to the Court.
- Petitions to the Court must allege the specific facts that demonstrate less restrictive alternatives to guardianship were considered or tried and why those alternatives are unavailable or insufficient. The Court will consider the availability of family, friends, and other supports, as well as available less restrictive alternatives, when making a decision regarding the incapacitated person's need for guardianship. Less restrictive alternatives include:
  - Advanced directives;
  - Living wills;
  - Health care power of attorney;
  - Health care representatives;
  - Financial powers of attorney;
  - Trusts;
  - Representative payees for individuals receiving Social Security benefits;
  - Pennsylvania Achieving a Better Life Experience accounts; and
  - Mental Health advance directives.

- The Court will prefer the less restrictive alternatives, and the Court may not appoint a guardian if a less restrictive alternative exists that is sufficient to support the needs of the incapacitated person.
- When entering an order that denies the petition for guardianship in whole or in part, the Court will identify the available less restrictive alternatives to allow the alleged incapacitated person to manage personal finances or their personal health and safety needs.
- If there is evidence presented during the guardianship proceeding that indicates that the person's incapacity may change, then the Court will hold a review hearing to determine whether the guardianship continues to be necessary for that person. This review hearing will be held no later than one year from the date on the Court's order establishing the guardianship.
- At any time following the issuance of the Court order that established the guardianship, any interested person may file a petition to terminate or modify the guardianship. The court will promptly schedule a hearing or hold a review hearing.

**FISCAL IMPACT:**

This legislation may result in an increased number of review hearings due to the automatic review required by this legislation when evidence is presented during the guardianship proceeding that indicates that the person's incapacity may change. The increase in review hearings is not anticipated to result in increased costs to the Court, so the enactment of this legislation is not expected to have an adverse fiscal impact to the Commonwealth.

**PREPARED BY:** Mara Perez  
House Appropriations Committee (D)

**DATE:** December 13, 2023

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*